

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3750 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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ASHOKKUMAR C BHAVSAR

Versus

SATISHCHANDRA J TRIVEDI  
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Appearance:

MR BR PARIKH for Petitioner  
MR JAL UNWALA for Respondent No. 1  
MR MA BUKHARI, AGP, for Respondent No. 2  
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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 25/07/2000

ORAL JUDGEMENT

1. Challenge has been made by the petitioner, a licensed Stamp Vendor and Petition Writer to the order dated 11-5-1990, annexure 'N' of the District Judge, Mahesana under which his licence for petition writing was

ordered to be cancelled. As a result of cancellation of the licence of the petitioner of petition writer, the District Judge, Mahesana also directed the petitioner not to deal in selling stamps in the District Court and subordinate court situated in Rajmahal Complex. Learned District Judge, further directed the Prant Officer, Mahesana and Collector, Mahesana to pass appropriate order re. licence granted to the petitioner for selling of stamps. This order has been passed on the alleged misconduct which has been committed by the petitioner, i.e. he misbehaved with an advocate.

2. This petition was admitted by the Court on 21st May, 1990 and interim relief in terms of para-13(B) has also been granted. Para-13(B), reads as under:

pending hearing and final disposal of this petition, the order annexure 'N' dated 11-5-1990 passed by the learned Dist. Judge, Mahesana, under challenge be stayed.

3. So the order annexure 'N' remained under stay for all these years. It is stated at the Bar that the advocate Satishchandra J. Trivedi who made complaint against the petitioner, on the basis of which, the impugned order has been passed by the District Judge, Mahesana has been appointed as a Civil Judge (J.D.).

4. Learned counsel for the petitioner raised manifold contentions challenging the impugned order passed by the District Judge, Mahesana but as this petition deserves to be allowed only on the ground that the petitioner was not afforded any opportunity to engage an advocate in the proceedings, it is not necessary to deal with all those contentions.

5. On 11-4-1990, the petitioner made an application to the District Judge, so as to enable him to engage an advocate. On the same day, learned District Judge rejected the said application for adjournment and immediately started hearing the arguments and passed the order impugned, in this special civil application.

6. Learned counsel for the respondent has given out that the petitioner has been given sufficient opportunity to engage an advocate and if he was really desirous of engaging an advocate, he could have done so.

7. I fail to see any justification in this contention of the learned counsel for the respondent. Request has been made by the petitioner for adjournment

of the matter and even if earlier the petitioner has been given opportunity to engage and advocate, last opportunity could have been granted. It is a serious matter and the order passed adverse to the petitioner certainly results in civil consequences. Copy of the application filed by the petitioner is on the record as annexure 'M' at page No.34. The District Judge has rejected this application on the ground that the request made for adjournment deserves no acceptance as in past sufficient opportunity has been given but if we go by the facts then this inquiry started in the year 1990 and I fail to see what was the haste therein which justifies this speedy approach in the matter. The courts are not able to dispose of the judicial matters for years together. These are kept pending for years together but in this inquiry, the District Judge has shown much more haste than what it was necessary. It is not a case where this approach which has been taken by the District Judge was justified. It is not a case where years have been passed and the petitioner is making delay in the proceedings.

8. Rojakam of the proceedings is there as annexure 'D', page NO.42 from which it is borne out that on 5-3-1990, notice was issued to the petitioner. Then on 15-3-1990, the petitioner put appearance and prayed for time to file written statement. that has been granted and the case was adjourned to 26-3-1990. On 26-3-1990, written statement has been filed by the petitioner and the matter was adjourned to 2-4-1990. On that day, the complainant was absent. The petitioner was present. On 2-4-1990, the matter has been adjourned to 11-4-1990. So from these proceedings, it is difficult to say what to accept that the petitioner has been afforded sufficient opportunity to engage an advocate.

9. The order passed by the District Judge has been stayed by this Court for all these years, meaning thereby, the petitioner is working as a Stamp Vendor as well as Petition Writer. During this period, it is not the case of the respondents that the petitioner was found to have indulged in some misconduct. This is another ground which justifies that the petitioner should be afforded an opportunity to engage an advocate in this matter.

10. As a result of the aforesaid discussion, this special civil application succeeds and the same is allowed and the order of the District Judge, Mahesana dated 11-5-1990 passed in Non-judicial Application No.1 of 1990 is quashed and set aside and the matter is

remanded back to the District Judge, Mahesana to restore the same to its original number and after giving an opportunity to the petitioner to engage an advocate, the matter may be decided within a period of six months from the date of receipt of writ of this order. Rule is made absolute accordingly with no order as to costs.

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